



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2014-1019]

RIN 1625-AA00

Safety Zone; Memphis Port Area Multiagency Mass Rescue Operations and Medical Surge Full-Scale Exercise, Lower Mississippi River, Mile Marker, (MM) 745.0 to (MM) 736.0, Memphis, TN

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

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SUMMARY: The Coast Guard is proposing to establish a temporary Safety Zone for all waters of the Lower Mississippi River, from MM 745.0 to MM 736.0. This safety zone is needed to protect persons and vessels from the potential safety hazards associated with a full-scale multiagency mass rescue exercise. Entry into this zone is prohibited to all vessels, mariners, and persons unless specifically authorized by the Captain of the Port (COTP), Lower Mississippi River or a designated representative.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail LT Tyrone Conner, Sector Lower Mississippi River Waterways Management Division, U.S. Coast Guard; telephone (901)521-4725, e-mail [Tyrone.L.Conner@uscg.mil](mailto:Tyrone.L.Conner@uscg.mil). If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security

FR	Federal Register
MM	mile marker
NPRM	Notice of Proposed Rulemaking
SAR	Search and Rescue

#### A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

##### 1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number [USCG-2014-1019] in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

## 2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2014-1019) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

## 3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

#### 4. Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one on or before [INSERT DATE 10 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], using one of the methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial.

#### B. Regulatory History and Information

The Coast Guard has a long history working with local, state, and federal agencies in areas to improve emergency response, to prepare for events that call for swift action, and to protect our nation. The Coast Guard is proposing to establish this safety zone on the waters of the Lower Mississippi River in Memphis, Tennessee for the Memphis Port Area Multiagency Mass Rescue Operations and Medical Surge Full-Scale Exercise. The full-scale exercise is scheduled to take place from 9:00 a.m. to 12:00 p.m. on April 22, 2015 and afford an opportunity for U.S. Coast Guard Sector Lower Mississippi River, City of Memphis Office of Emergency Management, Memphis

Fire Department, Memphis Police Department, Shelby County Sheriff's Office, Shelby County Office of Preparedness, Shelby County Health Department, DeSoto County Sherriff Office SAR Unit, Tipton County Emergency Management Agency, West Memphis Fire Department, Tennessee Wildlife Resources Agency, Tennessee Emergency Management Agency, Fullen Dock and Warehouse, Lucy Woodstock Marine Terminal, and Wepfer Marine to coordinate, communicate, and practice emergency response techniques for the safety of all Lower Mississippi River. This proposed rule is necessary to protect the safety of the participants, spectators, commercial traffic, and the general public on the navigable waters of the United States during the exercise.

#### C. Basis and Purpose

The legal basis and authorities for this rule are found in 33 U.S.C. 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Public Law 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to propose, establish, and define regulatory safety zones. The purpose of this proposed safety zone is to protect public boaters and their vessels from potential safety hazards associated with the full-scale exercise on the Lower Mississippi River, Memphis, Tennessee.

#### D. Discussion of Proposed Rule

This proposed rule is necessary to establish a Safety Zone that will encompass certain waters of the Lower Mississippi River in Memphis, Tennessee. The proposed Safety Zone regulations will be enforced from approximately 9:00 a.m. to 12:00 p.m. for approximately 3 hours on April 22, 2015. The proposed Safety Zone will establish from Mile Marker (MM) 745.0 to (MM) 736.0, where all persons and vessels, except those persons and vessels participating in the full-scale exercise and those vessels enforcing the areas, are prohibited from entering, transiting through, anchoring in, or remaining within.

Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the enforcement areas by contacting the Captain of the Port Lower Mississippi River by telephone at (866)777-2784, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the enforcement areas is granted by the Captain of the Port Lower Mississippi River or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Lower Mississippi River or a designated representative.

#### E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we

summarize our analyses based on a number of these statutes or executive orders.

#### 1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The temporary safety zone listed in this proposed rule will only restrict vessel traffic from entering, transiting, or anchoring within a small portion of the Lower Mississippi River. The effect of this regulation will not be significant for several reasons: 1) this rule will only affect vessel traffic for a short duration; 2) vessels may request permission from the COTP to deviate from the restriction and transit through the safety zone; and 3) the impacts on routine navigation are expected to be minimal because notifications to the marine community will be made through local notice to mariners (LNM) and broadcast notice to mariners (BNM). Therefore, these notifications will allow the public to plan operations around the safety zone and its enforcement times.



## 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the Lower Mississippi River from MM 745.0 to MM 736.0 effective from 9:00 a.m. to 12:00 p.m. on April 22, 2015. This safety zone will not have a significant economic impact on a substantial number of small entities because this rule will only be in effect during scheduled full-scale multiagency mass rescue exercise time for approximately 3 hours on the day the event is occurring. Traffic in this area is limited to almost entirely recreational vessels and commercial towing vessels. Notifications to the marine community will be made through BNMs and electronic mail. Notices of changes to the safety zone and scheduled effective times and enforcement

periods will also be made. Deviation from the restrictions may be requested from the COTP or designated representative and will be considered on a case-by-case basis.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

#### 4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State,

local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children from Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### 11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial

direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### 12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### 13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### 14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves establishing a temporary safety zone in the Lower Mississippi River, (MM) 745.0 to (MM) 736.0. This action is necessary to protect persons and property during the full-scale exercise. This rule is

categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### List of Subjects in 33 CFR Part 165

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

#### PART 165-- REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. A new temporary § 165.T08-1019 is added to read as follows:

§ 165.T08-1019 Safety Zone; Memphis Port Area Multiagency Mass Rescue Operations and Medical Surge Full-Scale Exercise,

Lower Mississippi River, Mile Marker, (MM) 745.0 to (MM) 736.0, Memphis, TN.

(a) Location. The following area will be under a temporary safety zone: waters of the Lower Mississippi River, from MM 745.0 to MM 736.0.

(b) Effective date and times. This safety zone will be effective from 9:00 a.m. to 12:00 p.m. on April 22, 2015.

(c) Regulations. (1) In accordance with the general regulations in § 165.23 of this part, entry into this area is prohibited unless authorized by the Captain of the Port (COTP) Lower Mississippi River or a designated representative.

(2) Spectator vessels may safely transit outside the safety zone at a minimum safe speed, but may not anchor, block, loiter, or impede participants or official patrol vessels.

(3) Vessels requiring entry into or passage through the safety zone must request permission from the COTP Lower Mississippi River or a designated representative. They may be contacted on VHF-FM channels 16 or by telephone at (901) 521-4822.

(4) All vessels shall comply with the instructions of the

COTP Lower Mississippi River and designated personnel.

Designated personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(d) Informational Broadcasts: The Captain of the Port, Lower Mississippi River or a designated representative will inform the public through broadcast notices to mariners (BNM) of the effective period for the safety zone and of any changes in the effective period, enforcement times, or size of the safety zone.

Dated: January 16, 2015.

T. J. Wendt,

Captain, U.S. Coast Guard,

Captain of the Port, Lower Mississippi River.

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Date: 02/10/2015]